

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA HELD ON THE 15TH DAY OF DECEMBER, 2014 AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	William H. Brown	-Chair
	Mary W. Biggs	-Vice Chair
	Gary D. Creed	-Supervisors
	Christopher A. Tuck	
	M. Todd King	
	Matthew R. Gabriele	
	Annette S. Perkins	(arrived at 6:15 p.m.)
	F. Craig Meadows	-County Administrator
	L. Carol Edmonds	-Deputy County Administrator
	Martin M. McMahon	-County Attorney
	Neal Turner	-Emergency Services Coordinator
	Karen Edmonds	-Director of Human Resources
	Dari Jenkins	-Zoning Administrator
	Ruth Richey	-Public Information Officer
	Brea Hopkins	-Planner
	Vickie Swinney	-Secretary Board of Supervisors

CALL TO ORDER

The Chair called the meeting to order.

INTO CLOSED MEETING

On a motion by Matthew R. Gabriele, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711 (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment, Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
1. NRV Economic Development Alliance
 2. Planning Commission
 3. Planning District Commission

- (7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probably Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel

1. Luna
2. Backcountry.com

- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body

1. Former Blacksburg Middle School Property

The vote on the foregoing motion was as follows:

AYE

Matthew R. Gabriele
Gary D. Creed
Christopher A. Tuck
Mary W. Biggs
M. Todd King
William H. Brown

NAY

None

ABSENT DURING VOTE

Annette S. Perkins (arrived at 6:15 p.m.)

OUT OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by M. Todd King and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby ends their Closed Meeting to return to Regular Session. The vote was as follows:

AYE

Mary W. Biggs
M. Todd King
Annette S. Perkins
Gary D. Creed
Christopher A. Tuck
Matthew R. Gabriele
William H. Brown

NAY

None

CERTIFICATION OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by M. Todd King and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

Mary W. Biggs
M. Todd King
Annette S. Perkins
Gary D. Creed
Matthew R. Gabriele
Christopher A. Tuck
William H. Brown

NAYS

None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

INVOCATION

A moment of silence was led by the Chair.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PRESENTATION

Montgomery County Employee Retirees

The Board of Supervisors recognized the following 2014 County employee retirees:

Betty L. Page	County Administration	35 years
Gary L. Chandler	Sheriff's Department	32 years

Also recognized, but not present were:

William J. Saunders, II	Sheriff's Department	28 years
David C. Barnett	General Services	28 years
Karen C. Martin	Christiansburg Library	30 years

DELEGATIONS

Dialogue on Race Representatives from the Issue Group on Income Gap & Employment of the Dialogue on Race made the following presentation to the Board of Supervisors:

Ban the Box: What it is and Why it Matters

What is Ban the Box?

- Doing away with (banning) the check box on employment applications that asks individuals whether they have ever been convicted of a crime
- Ban-the-box laws require hiring managers to put off asking about a candidate's criminal history until after an interview has been conducted or a provisional job offer has been extended
- The box, if kept, "becomes a broad brush that eliminates further contact with an employer and prevents individuals from becoming employed" (Mr. Ted Edlich, CEO, Total Action for Progress (TAP) in Roanoke)
- Once the hiring official is prepared to offer the applicant a job or when he/she is a finalist for the open position, a criminal background check could be initiated as opposed to at the very beginning of the process
- Worth considering –
 - °In 1996 only 50% of HR managers used background checks; in 2003 over 80% did; in 2009 over 92% did
 - °The use of criminal records checks may result in a Title VII issue: "...For a plaintiff to succeed in challenging an employer's criminal records policy under Title VII's disparate impact provision she does not need to show the employer intended to discriminate. Instead she must establish that the employer's consideration of criminal history information has disproportionate adverse impact on a group protected by Title VII."

How does the Process Work?

- The applicant is able to explain
 - °the nature of the crime
 - °how long ago it was committed
 - °when incarceration ended
 - °successful rehabilitation efforts and certifications if available
- The applicant is given an opportunity to review the records to determine their accuracy
- The hiring official adheres to federal Equal Employment Opportunity Commission guidelines and does not make negative decisions when the crime is unrelated to the job duties.

Key Facts to Consider

- Nearly 1 in 4 adults in the US has a conviction history (+70 million)
- Of the 700,000 people released from state prisons, over 75% will not have a job a year after release
- A criminal record reduces likelihood of callback or employment by 50%
- The “box” discourages people from applying
- If hiring discrimination occurs, it most probably (76%) will occur at first interaction (e.g., job application)

Relationship to Race

- In 2008 there were an estimated 2.4 million people in U.S. jails and prisons – the disproportionate majority of whom (over 2/3) are people of color
- African Americans make up roughly 13% of the U.S. population, but are 40% of its prisoners

Economic Costs

- According to a recent report by VERA Institute of Justice, the cost to incarcerate an average daily population of 29,792 in Virginia was \$748.6 million in fiscal year 2010
 - It costs just over \$25,000 per year to house one prisoner in Virginia
 - Although several factors affect recidivism, studies have shown that the single largest determinant of re-arrest and re-conviction is whether an individual is able to find employment after release
- Virginia releases approximately 13,000 ex-offenders into society each year
- 2006 study of help-wanted ads in Virginia: of 192,000 positions listed, only 16,000 (8.23%) were open to hiring an applicant with a record

Potential Economic Benefits

- Putting 100 incarcerated people back to work would
 - Increase their lifetime earnings by \$55 million
 - Increase income tax contributions by \$1.9 million
 - Save nearly \$2.5 million by keeping them out of the criminal justice system
- Resources exist to support re-entry programs (e.g., The National Reentry Resource Program, a project of the Council of State Governments Justice Center)

Evidence that the Program Works from Durham, NC

- Since the Ban the Box initiative began in 2011, the overall proportion of people with criminal records hired by the City of Durham has increased nearly 7 fold
- More important, no increase in workplace crime in either the city or the county government has occurred, and no employee has been fired because of illegal activity

Rural Counties – Cumberland County, NC

- More and more rural counties are considering this important initiative. For example, Cumberland County, NC changed its hiring policy in September 2011. The Assistant county manager for human resources said,
 - “We wanted to make sure we’re diligent in considering applicants and that their qualifications are considered first and foremost. With this process, they get to the interview and they have the opportunity to explain any issues they’ve had in their past”

Virginia Localities that have Banned the Box

Alexandria	Norfolk
Arlington County	Petersburg
Charlottesville	Portsmouth
Danville	Richmond
Fairfax County	Roanoke
Fredericksburg	Virginia Beach
Newport News	

Our Request

- Remove the box from the county's applications, where possible
- Require any contractor or consultant hired by the county to follow this process
- Make a public statement to encourage other employers to Ban the Box

Following the presentation there was discussion by the Board, and it was consensus of the Board that the County Administrator draft a resolution banning the box on county employment applications and bring it back to the next meeting for the Board's consideration.

PUBLIC HEARINGS

The Chair announced that the request by Betty Robertson Payne for a Special Use Permit on 9.6 acres in an A1 zoning district to allow a contractor's storage yard had been withdrawn by the applicant.

Variable Width Permanent Pedestrian Access Easement – Town of Christiansburg

The Town of Christiansburg has requested a variable width permanent pedestrian access easement across a portion of County property, Tax Parcel # 527(A)-84, the former Crowgey property, beside the old Courthouse.

The County Attorney reviewed the request from the Town of Christiansburg for an access easement for a public sidewalk and pedestrian access along a small area commonly known as the former Crowgey property which the county bought as part of the courthouse property for the new courthouse. The easement is for the town to be able to put in and maintain a sidewalk and pedestrian access. Since there is no known opposition to the request, it is listed on the agenda under New Business for the Board's consideration.

There being no speakers either for or against the request, the public hearing was closed.

Special Use Permit- John A. Barr, Jr. and Kelly Burdette

A request by John A. Barr Jr. and Kelly Burdette for an amendment to a Special Use Permit (SUP) on approximately 57.139 acres in an Agricultural (A1) zoning district approved May 10, 2010 for a kennel and 2 (two) detached accessory structures over 1200 square ft. to revise condition 3(b) allowing an increase in the permitted area and height of one of the accessory structures. The proposed structure will increase in area from 1,680 square ft. to 3,600 square ft. and from 20 ft. to 24 ft. in height. The property is located at 490 Craig Creek Road and is identified as Tax Parcel No. 015- A 1 (Account No. 002518) in the Mount Tabor Magisterial District (District A). The property currently lies in an area designated as Resource Stewardship in the 2025 Comprehensive Plan.

Zoning Administrator Dari Jenkins reported that the Planning Commission met on December 10, 2014 and reviewed the request and felt that the application meets the requirements of the Comprehensive Plan and recommended approval of the SUP with the following revised conditions:

1. Kennel operations shall be limited to the breeding, raising, and selling of dogs and/or puppies owned by the property owner.
2. A yearly kennel license for no more than 50 dogs shall be obtained as required by Montgomery County Code.

3. The proposed accessory structures as shown on ~~“Sketch Showing Proposed House & Kennel” prepared by Berkman Land Surveying, dated February 24, 2010 (Job No. 09093)~~ Plat Showing Existing House & Proposed Kennel & Garage” prepared by Berkman Land Surveying, dated October 10, 2011 (Job No. 09093) shall be limited in size as follows:
 - Building 1 shall not exceed 3,600 square feet in area and 27 ft. in overall height.
 - Building 2 shall not exceed ~~4,680~~ 3,600 square feet in area and ~~20-27~~ in overall height.
4. Accessory structures shall be used for personal and kennel use only. Retail sales and/or other commercial activities shall not be permitted.
5. The accessory property owners were notified in compliance with the Code of Virginia and Section 10-52(3) of the Montgomery County Code. Staff has not received any inquiries regarding the proposed amendment to the Special Use Permit (SUP) and there were no public comments during the hearing.

John A. Barr, Jr., applicant, spoke on behalf of his request, pointing out that if the two original buildings are combined, in size it would still only increase by approximately 600 square feet.

Supervisor Chris Tuck asked if Board members would have a problem if this request was listed under New Business for consideration by the Board since there had been no opposition. This sparked a discussion about inconsistency in the approval process. It was suggested that this would be an appropriate subject to discuss at the Board’s next extended work session.

There being no further speakers, the public hearing was closed.

Rezoning and Special Use Permit-NRVP&P LLC Properties

A request by NRVP&P LLC Properties for a Rezoning and Special Use Permit (SUP) on approximately 5.917 acres in a General Business (GB) zoning district to allow a recycling facility. The property is located at 3431 Radford Road and is identified as Tax Parcel No. 90-4-1A, 90-5-1,2,3,4,5,6,7, 90-5-40, 40A and 40B. (Account No. 011646, 019273, 019274, 019275, 019276, 019277, 014110, 014148, 015706, 014011 and 014149) in the Riner Magisterial District (District D). The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and Mixed Use in the Prices Fork Village Plan.

The Zoning Administrator explained that the owner’s current recycling facility will be relocated from 2700 Radford Road to this site at 3431 Radford Road and will utilize existing buildings previously used for automobile sales and repair. The proposed site will provide much safer access for recycling customers and allow queuing of customer vehicles without creating a hazard within the VDOT right-of-way. All recyclables will be unloaded, sorted and stored inside the repurposed structures until a truckload is available for shipment. The applicant is currently operating at 2700 Radford Road and if this request is approved, the SUP at 200 Radford Road will be abandoned.

The proposed recycling facility will utilize and improve one of the four existing commercial entrances to Radford Road; the remaining three entrances to Radford Road will be closed. The owner initially indicated that he may close the existing commercial entrance to Testerman Drive (SR 792). However, our Emergency Services Coordinator suggested that Mr. Phillips keep the entrance on Testerman Drive with a locked gate as a secondary access for fire and rescue vehicles in case of an emergency. The applicant expects the traffic volume will be significantly less than the site experienced as an automobile dealership.

Planning staff received one call related to the request, from a lady that was concerned about people putting things in the stream, but she did not leave her name or contact information.

The Planning Commission conducted a public hearing on December 10, 2014, and voted to recommend approval of the request, with 15 conditions.

Brenda Jean Tyler, who lives on Gantt Drive, asked if this would increase the traffic flow on Gantt Drive. The applicant responded that he does not anticipate additional traffic on Gantt Drive. The facility that will be accessed off Gantt Drive will be the facility for repair of company-owned vehicles and will not be used by customers.

Ray Dadeblean also lives on Gantt Drive, and said he understands the company applied for a high voltage line and asked what would be the purpose of a high voltage line. His main concern is whether the trucks that would come and load the recycled material would be entering and exiting from Radford Road, or if they would be entering into the building from one side and exiting the building from the other side.

Kendall Clay, attorney for the applicant, explained that there was no request for a high voltage line, there was a request for a 3-phase current which is required for some of the compacting that would be done in the facility. He also explained that the tractor trailers would come in the same entrance the customers would, and the outgoing material would be loaded at the loading dock behind the building, and trucks taking the material out would follow the same pattern as customers bringing materials to the site.

There being no further speakers, the public hearing was closed.

Special Use Permit - Request Withdrawn by the applicant

A request by Betty Robertson Payne (Armsey Living Trust) and DCI/Shires, Inc. (Agent) for a Special Use Permit for approximately 9.6 acres in an Agriculture (A1) zoning district to allow a contractor's storage yard. The property is located on the south side of McCoy Road (SR 718) identified as Tax Parcel No. 051-5 4,5,6,7, (Acct. No. 014147, 04146 and 016146, in the Prices Fork Magisterial District (District E). The property currently lies in an area designated as Village Expansion in the Comprehensive Plan and Mixed Use in the Prices Fork Village Plant.

The Chair announced that the Special Use Permit request to allow a contractor's storage yard was withdrawn by the applicant, and anyone present who had come to address the Board about this request was welcome to speak at this time.

No one stepped forward to speak.

PUBLIC ADDRESS

David Sisson, Big Spring Drive in Elliston-as the volunteer head baseball coach at the Day Spring Christian Academy in Blacksburg, and speaking on behalf of the school, Mr. Sisson asked that the Board of Supervisors permit the school to once again use the baseball facilities at the Shawsville Middle School. He asked that the Board allow them the use of the facilities for at least five years, each spring from March 1st through May 15th. They would use the fields on Mondays, Tuesdays, Thursdays, and Fridays and occasionally on Saturday mornings. Their desire is to make the field one of the better fields in the County. They have already cleared out

all the brush since the school district stopped using the field this summer, and plan to implement some of the following improvements as time and finances permit:

- ✓ Add an outfield warning track to warn the players they are approaching the outfield fence
- ✓ To add a fence catch around the field to prevent injuries as well
- ✓ Paint the dug outs
- ✓ Repair the scoreboard
- ✓ Landscape the hillside between the field and Route 460
- ✓ Finally, if funds become available to add lights to the field.

Supervisor Matt Gabriele asked if this matter could be added to a work session agenda.

The County Administrator suggested that the Board schedule a work session right before the PSA's first meeting in January to talk about the issue and also to continue the discussion of larger issues in the Shawsville area with the current middle school properties and the elementary school property and that staff needs a clear direction from the Board as to how they want to move forward.

Rachel Kennedy 1320 Jennelle Road in Blacksburg-wanted the Board to know that she is the person who sent the e-mail about the bees and wanted to talk briefly about the two small bee hives on her property. The Town has advised her that her property is zoned R2 and told her the bees have to be moved by the end of the month. The Town told her she had the right to appeal, but she cannot pay the \$260 to appeal and the co-owner of the bees is out of town until June. She said she will move the bees but she just needs more time.

The Chair explained to Ms. Kennedy that this is an ordinance and if she is doing something that is in violation of the local code, the Board of Supervisors cannot give her an extension to keep violating the local code. He also pointed out that there are some people close to Ms. Kennedy that are allergic to bee stings and this is creating a problem. The County Attorney suggested that Ms. Kennedy contact the County's Zoning Administrator, who is empowered by the Board of Supervisors and state law to enforce the zoning ordinance, and talk with her and maybe come up with some reasonable extension of time. The County is willing to work with people if they are working toward solving the issue.

Margaret Smith 4425 Old Rough Road in Riner – Ms. Smith addressed the Board about a strategic plan for agriculture, and Agritourism in particular. A little over a year ago, Montgomery County joined with Giles and Pulaski Counties to come up with a strategic plan for agriculture and Agritourism. Ms. Smith is on a steering committee as a producer (she lives on a farm in Riner and also has a few cattle). This came about with two grants that have been awarded to the counties, one is a community block grant which focuses on low-income jobs and the other one is a grant from VDoT for Agritourism, and the two together have caused some confusion, so they ended up getting a consultant. Ms. Smith provided copies to the Board of the mission statement the consultants included in the proposed strategic plan. She asked the Board to read it carefully and be sure it is what they want. It reads as follows:

“Tri-County Agritourism Strategic Plan

A strategic plan that helps the tri-county area focus on agricultural development incorporating the needs of traditional commodity based farming (beef cattle and forestry) with emerging new agriculture opportunities (Agritourism, grapes and wineries, and value added production and marketing). This plan will combine the skills and resources of the public sector with the realities

and needs of the farming community to enhance profitability, sustainability, and quality of life for future generations”.

There being no further speakers, the Public Address Session was closed.

ADD TO AGENDA-ADDENDUM

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously, the following two items were added to the agenda under New Business:

Special Use Permit-John A. Barr, Jr. and Kelly Burdette

A request by John A. Barr Jr. and Kelly Burdette for an amendment to a Special Use Permit (SUP) on approximately 57.139 acres in an Agricultural (A1) zoning district approved May 10, 2010 for a kennel and 2 (two) detached accessory structures over 1200 square ft. to revise condition 3(b) allowing an increase in the permitted area and height of one of the accessory structures.

Resolution Agreeing to Undertake an Unbinding Moral Obligation for the Economic Development Authority of Montgomery County, Virginia

For the EDA to enter into a Lease Agreement with Luna Innovation, Inc. whereby the EDA agrees to construct and upfit office space in the Technology Manufacturing Building in the Blacksburg Industrial Park in order to lease 41,500 sq. ft. in the building to Luna

The vote on the foregoing motion was as follows:

AYE

Matthew R. Gabriele
Mary W. Biggs
Christopher A. Tuck
Gary D. Creed
Annette S. Perkins
M. Todd King
William H. Brown

NAY

None

CONSENT AGENDA

On a motion by Matthew R. Gabriele, seconded by Christopher A. Tuck and carried unanimously, the Consent Agenda dated December 15, 2014 was approved. The vote was as follows:

AYE

Matthew R. Gabriele
Christopher A. Tuck
Annette S. Perkins
M. Todd King
Gary D. Creed
Mary W. Biggs
William H. Brown

NAY

None

Approval of Minutes

On a motion by Matthew R. Gabriele, seconded by Christopher A. Tuck and carried unanimously, the Minutes dated September 8 and September 22, 2014 were approved.

Appropriations

A-FY-15-55 STATE FLEXIBLE CUT FOR 2015 CORRECTION OF STATE ERROR

On a motion by Matthew R. Gabriele, seconded by Christopher A. Tuck and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund is adjusted for the fiscal year ending June 30, 2015 for the function and in the amount as follows:

Revenue Account

02 422103	Motor Vehicle Carrier Tax	\$ 4,513
02510 424445	Comprehensive Services Act	<u>(\$4,513)</u>
	Total Revenue	\$ 0

Said resolution appropriates motor vehicle carrier tax funds and reduces Comprehensive Services Act funds to correct the mistake made by the state regarding the reduction in state aid to localities for FY 2015.

A-FY-15-56 PUBLIC HEALTH DEPARTMENT

On a motion by Matthew R. Gabriele, seconded by Christopher A. Tuck and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2015 for the function and in the amount as follows:

530 Public Health Department	\$10,672
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The source of funds for the foregoing appropriation is as follows:

Revenue Account

451203	Undesignated Fund Balance	\$10,672
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Said resolution appropriates fund balance to match the State's contribution to the County Health Department.

Appointments

R-FY-15-50 WESTERN VIRGINIA EMERGENCY MEDICAL SERVICES COUNCIL

On a motion by Matthew R. Gabriele, seconded by Christopher A. Tuck and carried unanimously

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby re-appoints **Joe Coyle** to the **Western Virginia Emergency Medical Services Council** and re-appoints **Robert Heins** as his alternate, effective January 1, 2015 and expiring December 31, 2017.

OLD BUSINESS

ORD-FY-15-07 An Ordinance Amending Chapter 3, Entitled Animals of the Code of the County of Montgomery, Virginia by Amending Section 3-50 through 3-55 and By Adding Section 3-56 in Order to Comply With State Law Changes Concerning Dangerous and Vicious Dogs Enabling Legislation

On a motion by Mary W. Biggs, seconded by M. Todd King and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 3, entitled Animals Section 3-50 through 3-56 shall be amended, added and reordained as follows:

Sec. 3-50. – ~~Definitions~~Control of dangerous dogs.

For the purpose of this article ~~the following words and phrases~~ dangerous dog shall have the meanings respectively ascribed ~~to them~~ by this section.

Dangerous dog means a canine or canine crossbreed that has bitten, attacked or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat, ~~however,~~ When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite (ii) if both animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines based on the totality of the evidence before it that the dog is not dangerous or a threat to the community.

~~*Vicious dog* means a canine or canine crossbreed that has:~~

~~(1) Killed a person;~~

- (2) ~~Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of a bodily function; or~~
- (3) ~~Continued to exhibit the behavior that resulted in a previous finding by a court or on or before July 1, 2006 by an animal control officer as authorized by the provisions of section 3-51(b) that it is a dangerous dog, provided that its owner has been given notice of that finding.~~

Sec. 3-51. - Finding of dangerous ~~or vicious~~ dog.

- (a) Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within Montgomery County is a dangerous dog ~~or vicious dog~~ shall apply to a magistrate for the issuance of a summons requiring the owner or custodian, if known, to appear before the Montgomery County General District Court at a specified time. The summons shall advise the owner or custodian of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a summons, he or she shall contact the local animal control officer and inform him or her of the location of the dog and the relevant facts pertaining to his or her belief that the dog is dangerous ~~or vicious~~. The animal control officer shall confine the animal until such time as evidence shall be heard and verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, the animal control officer may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered.
- (b) The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this article ~~and to pay any impound fees to the County of Montgomery for confining the animal until the hearing. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia, § 3-2-6562, as amended.~~ The court upon finding the animal to be a dangerous ~~or vicious~~ dog, may order the owner, custodian or harbinger thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The Court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner.

Sec. 3-52. - Dangerous dog certificate.

- (a) The owner of any animal found to be a dangerous dog shall, within ~~ten (10)~~ forty-five (45) days of such finding, obtain a dangerous dog registration certificate from the animal control officer for a fee of ~~fifty one hundred fifty dollars (\$50.00/150.00)~~. The animal control officer shall provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, All certificates obtained pursuant to this article shall be updated and renewed annually for the same a fee of eighty-five dollars (\$85.00) and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the state veterinarian. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.
- (b) All certificates or renewals thereof required to be obtained under this article shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence that:

- (1) The animal has been neutered or spayed and has a current rabies vaccination;
 - (2) The animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed;
 - (3) The owner has liability insurance coverage, to the value of at least one hundred thousand dollars (\$100,000.00) that covers animal bites. The owner may obtain and maintain a bond in surety in lieu of liability insurance to the value of at least one hundred thousand dollars (\$100,000.00);
 - (4) The owner's residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and
 - (5) The owner has permanently identified the animal by means of ~~a tattoo on the inside thigh or by~~ electronic implantation.
- (c) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this article.

Sec. 3-53. - Requirements for dangerous dogs.

- (a) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals. ~~The structure shall be designed to provide the animal with shelter from the elements of nature.~~ While so confined within the structure, the animal shall be provided for according to Section 3.2-6503 of the 1950 Code of Virginia, as amended.
- (b) When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.
- (c) After an animal has been found to be a dangerous dog, the animal's owner shall immediately upon learning of same cause the animal control officer to be notified if the animal:
 - (1) Is loose or unconfined;
 - (2) Bites a person or attacks another animal; or
 - (3) Is sold, given away or dies.
- (d) Any owner of a dangerous dog who relocated to a new address shall, within ten (10) days of relocating, provide written notice to the animal control officer as to where the animal has been moved and notify the appropriate animal control officer where the animal has been moved if that address is outside of Montgomery County.
- (e) The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Code of Virginia, § 3.2-6542, within forty-five (45) days of such a finding by the court of competent jurisdiction. The owner shall also cause the animal control officer to be promptly notified of (i) the names, addresses, and telephone number of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) ~~tattoo or~~ chip identification information ~~or such~~; (vi) proof of insurance or a surety bond; and (vii) the death of the dog.

Sec. 3-54. - Exemptions.

- (a) No canine or canine crossbreed shall be found to be a dangerous dog ~~or vicious dog~~ solely because it is a particular breed nor is the ownership of a particular breed of canine or canine crossbreed be prohibited.
- (b) No animal shall be found to be a dangerous dog ~~or vicious dog~~ if the threat, injury or damage was sustained by a person who was:
 - (1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;
 - (2) Committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or
 - (3) Provoking, tormenting or physically abusing the animal or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times.
- (c) No police dog which was engaged in the performance of its duties at the time of the acts complained of shall be found to be a dangerous dog ~~or a vicious dog~~.
- (d) No animal which, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person or its owner's or custodian's property, shall be found to be a dangerous dog ~~or a vicious dog~~.

Sec. 3-55. - Penalties.

The owner of any animal which has been found to be a dangerous dog, who willfully fails to comply with the requirements of this article shall be guilty of a class 1 misdemeanor ~~and the animal which has been found to be a dangerous dog may be ordered by the court to be euthanized in accordance with the provisions of Code of Virginia, § 3.2-6562, as amended or ordered removed from the county and prohibited from returning to the county. Any animal which has been found to be a dangerous dog and ordered removed from the county which is later found in the county shall be ordered by the court to be euthanized immediately. Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this article, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The Court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.~~

Upon conviction, the Court may (i) order the dangerous dog to be disposed of by animal control pursuant to §3.2-6562 of the 1950 Code of Virginia, as amended, or (ii) grant the owner up to forty-five (45) days to comply with the requirements of this article, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the Court, the Court shall order the dangerous dog to be disposed of by animal control pursuant to §3.2-6562 of the 1950 Code of Virginia, as amended. The Court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

Any owner or custodian of a canine or canine crossbred or other animal is guilty of a:

1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this article when such declaration arose out of a separate

and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

2. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this article, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury.

Sec. 3-56. – Vicious Dogs.

(a) As used in this section:

"Serious injury" means an injury having a reasonable potential to cause death or any injury other than a sprain or strain, including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

"Vicious dog" means a canine or canine crossbreed that has (i) killed a person, (ii) inflicted serious injury to a person, or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer as authorized by ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

- (b) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a vicious dog shall apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of §3.2-6562 of the 1950 Code of Virginia, as amended. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or to the estate of any person killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such vicious dog from the time the animal is taken into custody until such time as the animal is disposed of. The procedure for appeal and trial shall be the same as provided by law for misdemeanors.

- (c) No canine or canine crossbreed shall be found to be a vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a vicious dog if the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass

upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a vicious dog.

The vote on the foregoing ordinance was as follows:

AYE

Matthew R. Gabriele
Gary D. Creed
M. Todd King
Mary W. Biggs
Annette S. Perkins
Christopher A. Tuck
William H. Brown

NAY

None

NEW BUSINESS

R-FY-15-51

**RESOLUTION APPROVING THE CONVEYANCE OF A
VARIABLE WIDTH PERMANENT PEDESTRIAN ACCESS EASEMENT
TO THE TOWN OF CHRISTIANSBURG ON COUNTY OWNED PROPERTY
100 EAST MAIN STREET, CHRISTIANSBURG, VIRGINIA, TAX MAP NO 527-(A)-84**

On a motion by Gary D. Creed, seconded by Annette S. Perkins and carried unanimously,

WHEREAS, The Town of Christiansburg has requested the Board of Supervisor of the County of Montgomery, Virginia to convey a variable width permanent pedestrian access easement along County property located at 100 East Main Street, Christiansburg, Virginia, Tax Map No. 527-(A)-84, as depicted on the attached Deed of Easement and Exhibit Plat entitled "Plat Showing A Variable Width Permanent Pedestrian Access Easement Across A Portion Of Tax Parcels 524-(A)-84" in order to construct and maintain a pedestrian sidewalk; and

WHEREAS, The Board of Supervisors is willing to convey the easement to the Town of Christiansburg; and

WHEREAS, A public hearing on this proposed conveyance was held on Monday, December 15, 2014, pursuant to Section 15.2-1800 of the Code of Virginia, 1950, as amended.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby agrees to convey the variable width permanent pedestrian access easement to the Town of Christiansburg on County Property located at 100 East Main Street, Christiansburg, Virginia, Tax Map No. 527-(A)-84; and

BE IT FURTHER RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby authorizes William Brown, Chair, to sign the Easement and any other documents necessary to convey the easement and right-of-way to the Town of Christiansburg.

The vote on the foregoing resolution was as follows:

AYE

Gary D. Creed
Annette S. Perkins
Mary W. Biggs
Christopher A. Tuck
M. Todd King
Matthew R. Gabriele
William H. Brown

NAY

None

Deed of Easement to Town of Christiansburg

Prepared by:

Theresa Fontana (#79597)
Town Attorney, Town of Christiansburg
GUYNN & DILLON, P.C.
415 South College Avenue
Salem, VA 24153

Tax Map No. 527 - (A) – 84
Consideration \$0

EXEMPTED FROM STATE AND LOCAL RECORDATION TAXES UNDER SECTION 58.1-811(A)(3) AND 58.1-811(C)(4), CODE OF VIRGINIA (1950) AS AMENDED.

THIS DEED OF EASEMENT, is made and entered into this 15th day of December, 2014, by and between MONTGOMERY COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia, “Grantor”, and the TOWN OF CHRISTIANSBURG, VIRGINIA, a municipal corporation organized pursuant to the laws of the Commonwealth of Virginia, “Grantee”, with an address of 100 East Main Street, Christiansburg, Virginia 24073.

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid by the Grantee to Grantor, the receipt of which is hereby acknowledged, Grantor does hereby grant and convey to Grantee, its successors and assigns, with covenants of right to convey, quiet possession, and further assurances, a permanent easement for construction, operation, and maintenance of a public sidewalk and/or pedestrian way upon and across the lands and property of the Grantor, as follows, to-wit:

An access easement for a public sidewalk or other pedestrian way situated in the Town of Christiansburg, Virginia, designated as “Variable Width Permanent Pedestrian Access Easement” on the attached exhibit entitled, “Plat Showing A Variable Width Permanent Access Easement Across A Portion Of Tax Parcels 527-(A)-84,” dated October 22, 2014, prepared by Ralph O. Clements, L.S., of Gay and Neel, Inc., marked “Exhibit A.”

The easement is located on the property of the Grantor consisting of approximately 4.005 acres, as shown on the plat entitled "Boundary Line Adjustment Plat of Tax Maps 527(A)84, 527(A)103 and Boundary Line Vacation of Tax Maps 527(A)85, 527(A)86, 527(A)87, 527(A)88, 527(A)89, 527(A)90, 527(A)91, (27(A)95, 527(A)96, 527(A)97, 527(A)98 and 52(A)104, for the Board of Supervisors of Montgomery County, Virginia, dated October 22, 2009, prepared by Eric Galen Gentry, L.S., of Thompson & Litton, and recorded in the Clerk's Office of the Circuit Court of Montgomery County, Virginia, as Instrument Number 2009011222.

IT IS AGREED between the parties hereto that it shall be Grantee's right and sole responsibility to construct, lay, maintain, repair, improve, replace, alter, and remove at will the public sidewalk and to clear all plants, trees, or shrubs and other obstructions, if any, in and along the said sidewalk or pedestrian way, or adjacent thereto, that may in any way endanger or interfere with the proper use of the same. No physical obstructions shall be placed within the easement at any time.

This conveyance is made expressly subject to all unexpired restrictions, reservations, and easements of record, if any, constituting constructive notice.

WITNESS the following signatures and seals:

GRANTOR:
MONTGOMERY COUNTY, VIRGINIA

By: William Brown, Chair

APPROVED AS TO FORM:

Martin M. McMahon, County Attorney

COMMONWEALTH OF VIRGINIA
COUNTY OF MONTGOMERY, to wit

The foregoing instrument was acknowledged before me on this 15th day of December, 2014, by William Brown, Chair, on behalf of Montgomery County, Virginia, Grantor.

Notary Public:
My commission expires: _____
Registration Number: _____

The foregoing Deed is hereby accepted pursuant to
Virginia Code § 15.2-1803.

GRANTEE:
TOWN OF CHRISTIANBURG, VIRGINIA

By: Barry D. Helms, Town Manager

APPROVED AS TO FORM:

Theresa J. Fontana, Town Attorney

COMMONWEALTH OF VIRGINIA
COUNTY OF MONTGOMERY, to wit

The foregoing instrument was acknowledged before me on this _____ day of December, 2014, by Barry D. Helms, Town Manager, on behalf of the Town of Christiansburg, Virginia, Grantee.

Notary Public:

My commission expires: _____

Registration Number: _____

R-FY-15-52
RESOLUTION APPROVING THE LEASE AGREEMENT
BY AND BETWEEN THE BLACKSBURG VFD TRAINING GROUNDS, LLC
AND THE COUNTY OF MONTGOMERY FOR THE PURPOSE OF
ESTABLISHING A COMPREHENSIVE FIRE TRAINING CENTER

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried unanimously,

WHEREAS, The Blacksburg VFD Training Grounds, LLC owns an 11.58 acre parcel of land on Merrimac Road in the County of Montgomery, Virginia; and

WHEREAS, The Blacksburg VFD Training Grounds, LLC and the County of Montgomery, Virginia are interested in entering into a Lease Agreement whereby the County uses the premises, with the assistance from Blacksburg VFD Training Grounds, LLC to establish a Comprehensive Fire Training Center for use by all Volunteer Fire Departments in the County of Montgomery; and

WHEREAS, The County desires to enter into a twenty-year lease with Blacksburg VFD Training Center, LLC pursuant to the terms and conditions of the attached Lease Agreement dated December 15, 2014.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby approves the attached Lease Agreement by and between the Blacksburg VFD Training Grounds, LLC and the County of Montgomery, Virginia, dated December 15, 2014.

BE IT FURTHER RESOLVED, By the Board of Supervisors that William H. Brown, Chair, is hereby authorized to execute the Lease Agreement on behalf of the County of Montgomery.

The vote on the foregoing resolution was as follows:

AYE

Mary W. Biggs

Annette S. Perkins

Gary D. Creed

Christopher A. Tuck

Matthew R. Gabriele

M. Todd King

William H. Brown

NAY

None

Lease Agreement

THIS LEASE AGREEMENT, made this 15th day of December 2014, by and between **BLACKSBURG VFD TRAINING GROUNDS, LLC**, a Virginia Limited Liability Company, Grantor; hereinafter referred to as “**Lessor**”, whose address is 407 Hubbard Street, Blacksburg, Virginia 24060 and the **COUNTY OF MONTGOMERY, VIRGINIA**, Grantee, hereinafter referred to as “**Lessee**”, whose address is 755 Roanoke Street, Christiansburg, Virginia, 24060.

W I T N E S S E T H:

WHEREAS, the Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, subject to the terms and conditions set forth in this Lease Agreement the following described premises owned by the Lessor for the purpose of locating a comprehensive Fire Training Center for use by all the Voluntary Fire Departments within Montgomery County, Virginia:

All that certain lot or parcel of land, with all improvements thereon and appurtenances thereunto belonging, situate, lying and being in the Prices Fork Magisterial District of Montgomery County, Virginia, more particularly described as follows:

BEING 11.580 acres, as shown on the plat entitled “Plat of Boundary Line Adjustment for Milton W. Reed”, prepared by Roberts Engineering, Inc., dated August 9, 2007, a copy of which is of record in the Clerk’s Office of the Circuit Court of Montgomery County, Virginia in Plat Book 27, at Page 271 and to which plat reference is made for a more particular description of the property herein leased.

Tax Map ID/Parcel Nos.: 070896 and 140670

Tax Map Nos.: 53-2 26 and 314-A 1 A

NOW, THEREFORE in consideration of the premises and the mutual covenants contained herein, the parties hereby agree as follows:

- 1) The term of this Lease shall be for a period of twenty (20) years commencing on December 15, 2014 and ending on December 15, 2034. The Lessee shall have the unilateral right to terminate this Lease at any time during the term of this Lease by providing written notice to Lessor. The parties may extend the Lease Term by mutual agreement.
- 2) The Lessee shall pay as rent the sum of Zero Dollars (\$0) per month. The Lessor agrees that all utilities shall be in the name of Blacksburg Volunteer Fire Training Ground, LLC and be paid by Lessor.
- 3) The Lessee shall use the premises, with assistance from the Lessor, for the purpose of establishing a Comprehensive Fire Training Center for use by all the Voluntary Fire Departments within the County of Montgomery and other Emergency Service Agencies. The existing buildings and other structures on the premises may be used as training props. The Lessee may also construct or locate for fire training purposes other burn training structures such as an approved Department of Fire Programs “burn building” on the premises.
- 4) The Lessor and Lessee shall be jointly and equally responsible for any and all repairs and maintenance of the premises including all structures on the premises being used as burn training structures.

5) Lessor shall be responsible for all real estate taxes and other State, County, or local assessments that may come due. The Lessor shall furnish proof of such payments upon Lessee's written request.

6) Montgomery County shall be responsible for the payment of hazard insurance premiums on the property. Montgomery County shall obtain insurance coverage on the property in an amount and with coverage acceptable to both Lessee and Lessor listing the Lessor as an additional insured.

7) Lessee agrees upon termination of the Lease to leave the premises in as good a condition as the Lessee found them, normal wear and tear excepted. Any structures added to the property during the term of this Lease such as a training "burn building", shall be conveyed to the Lessor at the end of the Lease term or sooner if agreed to by the parties.

8) Lessee shall not assign this Lease or sub-let the premises or any part thereof without written consent from the Lessor.

9) Either part hereto shall have the right to have this Lease recorded at their own expense.

10) In the event of a material breach of this Lease Agreement by either party, the non-breaching party may take any action or pursue any remedy permitted by law.

WITNESS the following signatures and seals:

BLACKSBURG VFD TRAINING GROUNDS, LLC

By: _____
Managing Member

COUNTY OF MONTGOMERY, VIRGINIA

By: _____
William H. Brown, Chair

STATE OF VIRGINIA,

CITY/COUNTY OF _____, to-wit:

The foregoing instrument bearing date of _____, was acknowledged before me this ____ day of _____, 2014, by _____, Managing Member of Blacksburg VFD Training Grounds, LLC.

My commission expires:

Registration number: _____

Notary Public

STATE OF VIRGINIA,

CITY/COUNTY OF MONTGOMERY, to-wit:

The foregoing instrument bearing date of _____, was acknowledged before me this ____ day of _____, 2014 by William H. Brown, Chair, Montgomery County Board of Supervisors, County of Montgomery, Virginia.

My commission expires:

Registration number: _____

R-FY-15-53
RESOLUTION SUPPORTING THE
PROPOSED DESIGN FOR THE RELOCATION
OF THE INTERSTATE 81 EXIT 118 FALLING BRANCH
PARK AND RIDE FACILITY

On a motion by Mary W. Biggs, seconded by Christopher A. Tuck and carried unanimously,

WHEREAS, The Virginia Department of Transportation (VDoT) plans to relocate the Interstate 81 Exit 118 Falling Branch Park and Ride Facility; and

WHEREAS, On October 30, 2014 a design public hearing was held at Falling Branch Elementary School, with VDoT attending, to present the proposed scope of work to include approximately 299 parking spaces, sidewalk, lighting, bus shelters, and other bicycle and handicap accommodations; and

WHEREAS, Twenty-three citizens attended the October 30th design public hearing; and

WHEREAS, VDoT recommends that the major design features shown at the October 30th design public hearing be approved; and

WHEREAS, The Interstate 81 Exit 118 Falling Branch Park and Ride Relocation and proposed limited access changes which include shifting and providing a break to maximize the future use of the site and surplus VDoT property; and

WHEREAS, The Interstate 81 Exit 118 Falling Branch Park and Ride Relocation project is identified in the VDoT Six-Year Improvement Plan for FY 2015 – 2020 as VDoT Project No. 9999-060-809, P101, M501, UPC 105518 with projected allocations identified to cover the anticipated project costs.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia hereby supports the design for the relocation of the Interstate 81 Exit 118 Falling Branch Park and Ride Facility; and

BE IT FURTHER RESOLVED, That a certified copy of this resolution be forwarded to the Virginia Department of Transportation.

The vote on the foregoing resolution was as follows:

AYE

Mary W. Biggs
Christopher A. Tuck
Gary D. Creed
Annette S. Perkins
Matthew R. Gabriele
M. Todd King
William H. Brown

NAY

None

R-FY-15-54
RESOLUTION RECOGNIZING THE
AUBURN HIGH SCHOOL
GIRLS VOLLEYBALL TEAM
STATE CHAMPIONS

On a motion by M. Todd King, seconded by Christopher A. Tuck and carried unanimously,

WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit; and

WHEREAS, Athletic competition enhances the moral and physical development of the young people in Montgomery County, preparing them for the future by instilling in them the value of teamwork, a sense of fair play, and competition; and

WHEREAS, On November 22, 2014 the *Auburn High School* Girls Volleyball Team, the *Eagles*, won the Group A, Division 1, State Championship; and

WHEREAS, This is *Auburn High School's* third consecutive state championship, winning in 2012, 2013 and 2014; and

WHEREAS, The Board of Supervisors desires to publically recognize and pay tribute to those young people who, achieving outstanding success in an athletic competition, have inspired and brought pride to their school and Montgomery County.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia, that the Board of Supervisors finds it appropriate to acknowledge and applaud the *Auburn High School Eagles* Girls Volleyball Team for winning the Group A, Division 1, State Championship which exemplifies their remarkable athletic talents and serves as an example of the exceptional quality of the youth of Montgomery County.

BE IT FURTHER RESOLVED, That the original of this resolution be presented to the *Auburn High School Eagles* and that a copy be a part of the official Minutes of Montgomery County.

The vote on the foregoing resolution was as follows:

AYE

M. Todd King
Christopher A. Tuck
Annette S. Perkins
Gary D. Creed
Mary W. Biggs
Matthew R. Gabriele
William H. Brown

NAY

None

R-FY-15-55
PROCLAMATION
MATT HAGAN-NATIONAL HOT ROD ASSOCIATION
2014 WORLD CHAMPION

On a motion by M. Todd King, seconded by Gary D. Creed and carried unanimously,

WHEREAS, *Matt Hagan* is a lifelong resident of Montgomery County and a graduate of Auburn High School; and

WHEREAS, *Matt Hagan* now manages the family's 500-acre cattle farm in Riner where he lives with his wife Rachel and their two children; and

WHEREAS, In addition to managing this 500-acre cattle farm ***Matt Hagan*** competes in the National Hot Rod Association's Full Throttle Drag Racing Series; and

WHEREAS, *Matt Hagan* first competed in the National Hot Rod Association's (NHRA), Full Throttle Drag Racing Series in 2008, which includes Funny Car, a drag racing car class; and

WHEREAS, In 2009 he raced in his first full season in the NHRA Full Throttle Drag Racing Series, posting runner-up finishes in Las Vegas and Charlotte; and

WHEREAS, In 2010 he finished second for the championship in the NHRA Full Throttle Drag Racing Funny Car competition; and

WHEREAS, During qualifying at a meet in Charlotte in September 2011, he became the first Funny Car driver in history to crack the four-second barrier, recording a blistering 3.995 seconds in a 1000' event; and

WHEREAS, In 2011 ***Matt Hagan*** won the NHRA Full Throttle Drag Racing Series World Championship in Pomona, California; and

WHEREAS, On November 16, 2014 ***Matt Hagan*** won the 2014 NHRA Full Throttle Drag Racing Series World Championship in Pomona, California; and

WHEREAS, It is fitting to recognize and share in the excitement for such a dedicated and exceptional athlete who engages in one of the most challenging and demanding tests of physical skill.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Board of Supervisors recognizes and congratulates ***Matt Hagan*** for his unparalleled accomplishment in winning the 2014 NHRA Full Throttle Drag Racing World Championship making him a two-time NRHA Funny Car Champion.

BE IT FURTHER RESOLVED, That the original of this resolution be presented to ***Matt Hagan*** and that a copy be made a part of the official Minutes of Montgomery County.

The vote on the foregoing resolution was as follows:

AYE

M. Todd King
Gary D. Creed
Matthew R. Gabriele
Christopher A. Tuck
Annette S. Perkins
Mary W. Biggs
William H. Brown

NAY

None

R-FY-15-57

**RESOLUTION AMENDING A SPECIAL USE PERMIT APPROVED
MAY 10, 2010 (R-FY-10-168) ALLOWING FOR A KENNEL OPERATION
AND 2 (TWO) DETACHED ACCESSORY STRUCTURES OVER
1200 SQUARE FT. 24 FT. IN HEIGHT TO REVISE CONDITION 3(B) BY
ALLOWING AN INCREASE IN THE PERMITTED AREA AND HEIGHT
OF ONE OF THE ACCESSORY STRUCTURES 490 CRAIG CREEK
ROAD PARCEL ID 002518, TAX MAP NUMBER 015-A-1
JOHN A. BARR JR. AND KELLY BURDETTE**

On a motion by Mary W. Biggs, seconded M. Todd King and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the request by **John A. Barr Jr. and Kelly Burdette** to amend a Special Use Permit (SUP) on approximately 57.139 acres in an Agricultural (A1) zoning district approved May 10, 2010 allowing for a kennel operation and two detached accessory structures over 1200 square ft. by revising condition 3(b) allowing for an increase in the permitted area and height of one of the accessory structures is hereby found to be consistent with the County's Comprehensive Plan and is approved subject to the following conditions:

1. Kennel operations shall be limited to the breeding, raising, and selling of dogs and/or puppies owned by the property owner.
2. A yearly kennel license for no more than 50 dogs shall be obtained as required by Montgomery County Code.
3. The proposed accessory structures as shown on plat entitled "Plat Showing Existing House & Proposed Kennel & Garage" prepared by Berkman Land Surveying, dated October 10, 2011 (Job No. 09093) shall be no larger than as follows:
 - Building 1 shall not exceed 3,600 square feet in area and 27 ft. in overall height.
 - Building 2 shall not exceed 3,600 square feet in area and 27 ft. in overall height.
4. Accessory structures shall be used for personal and kennel use only. Retail sales and/or other commercial activities other than the kennel operation shall not be permitted.
5. The accessory structures shall not be used as a dwelling, accessory or otherwise without obtaining the proper permits and approvals from the Zoning Administrator, Health Department, and Building Official.

The property is located at 490 Craig Creek Road and is identified as Tax Parcel No. 015- A-1 (Account No. 002518) in the Mount Tabor Magisterial District (District A). The property currently lies in an area designated as Resource Stewardship in the 2025 Comprehensive Plan.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Matthew R. Gabriele	None
Gary D. Creed	
M. Todd King	
Mary W. Biggs	
Christopher A. Tuck	
Annette S. Perkins	
William H. Brown	

R-FY-14-56
RESOLUTION OF THE BOARD OF SUPERVISORS AGREEING TO UNDERTAKE A
NON-BINDING MORAL OBLIGATION FOR THE ECONOMIC DEVELOPMENT
AUTHORITY OF MONTGOMERY COUNTY, VIRGINIA

On a motion by Christopher A. Tuck, seconded by M. Todd King and carried unanimously,

WHEREAS, The Economic Development Authority of Montgomery County, Virginia (“EDA”) proposes to enter into a Lease Agreement with Luna Innovation, Inc. (“Luna”) whereby the EDA agrees to construct and upfit Office space in the Technology Manufacturing Building (the “Building”) in the Blacksburg Industrial Park, in order to lease 41,500 sq. ft. in the Building to Luna; and

WHEREAS, The required construction and up-fit of the Building is proposed to cost the EDA One Million One Hundred Thousand Dollars with the monthly debt service to be paid by monthly lease payments to be made by Luna pursuant to the Lease Agreement and from other future tenants in the Building; and

WHEREAS, The EDA has secured One Million One Hundred Thousand Dollars in financing from the Bank of Floyd (“the Financing”) conditioned upon the Board of Supervisors first agreeing to be morally obligated to re-pay the Financing should the EDA fail to make the required payments to the Bank of Floyd; and

WHEREAS, The Board of Supervisors recognizes that having Luna agree to keep their business operation in the Building and sign a ten year lease extension to remain in the Building promotes economic development in the County and the Board of Supervisors desires to support the EDA in its efforts to finance the upfit required under the Lease Agreement with Luna by agreeing to enter into a Support Agreement with the EDA; and

WHEREAS, Section 15.2-953 of the Code of Virginia 1950, as amended, provides that any locality may appropriate money to an economic development authority for the purpose of promoting economic development.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Board of Supervisors hereby agrees:

1. Should the County receive written notice from the EDA that Luna has defaulted or otherwise vacated the Building and the EDA is no longer receiving rent payments from Luna that were intended to cover the loan payments owed under the Bank of Floyd Financing, the Board of Supervisors hereby agrees to undertake a non-binding moral obligation, in such manner that is consistent with both the Constitution and laws of the Commonwealth of Virginia, to appropriate money to the EDA sufficient to make up any deficiency and allow the EDA to continue to make its loan payments required under the Bank of Floyd. The Board of Supervisors, while recognizing that it is not hereby empowered to make any binding commitment to make such appropriation in future fiscal years, hereby states its intent to make such appropriations in future fiscal years and hereby recommends that future Boards do likewise.
2. Nothing herein contained is or shall be deemed to be a lending of the full faith and credit of the County of Montgomery to the EDA, to the Bank of Floyd or to any other person or entity and nothing herein contained is or shall be deemed to be a pledge of the full faith and credit or the taxing power of the County of Montgomery nor shall anything herein contained legally bind or obligate the Board of Supervisors to appropriate funds for the purpose described herein.
3. To enter into a Support Agreement between the County of Montgomery, Virginia, and the Economic Development Authority of Montgomery County, Virginia with terms consistent with the Board of Supervisors' stated intentions under this Resolution and authorizes William Brown, Chair, to execute the Support Agreement on behalf of the County of Montgomery, Virginia.

The vote on the foregoing resolution was as follows:

AYE

Gary D. Creed
M. Todd King
Mary W. Biggs
Annette S. Perkins
Christopher A. Tuck
Matthew R. Gabriele
William H. Brown

NAY

None

COUNTY ADMINISTRATOR'S REPORT

Mountain Valley Pipeline (MVP) will hold an open house on Thursday, December 18th beginning at 5:30 p.m. at the Days Inn in Blacksburg. This is a requirement of the Federal Energy Regulatory Commission (FERC) process. The County Administrator plans to attend the

open house meeting. Hopefully the MVP representatives will have some helpful information for residents and other interested parties.

Retirement Karen Edmonds, our Human Resources Director who has been the County's HR Director for a number of years, is retiring at the end of this month. A reception is planned for Friday from 1:30-3:00 p.m. in one of the multi-purpose rooms. The County Administrator invited Board members to stop by if they had the opportunity. County Administration is in the process of setting up interviews for Karen's replacement, and hopefully will be moving forward with that in the days ahead.

Employee Christmas Luncheon The County Administrator reminded the Board of the Employee Christmas Luncheon on Wednesday, December 17th 11:30 a.m. – 1:30 p.m., and hopes Board members will be able to attend.

BOARD MEMBERS' REPORTS

Supervisor Matt Gabriele wished everyone a happy holiday.

Supervisor Gabriele attended the Economic Development Commission (EDC) annual luncheon a couple of weeks ago. John Overton from Christiansburg will be the new Chair of the EDC.

Supervisor Gabriele asked the status of the Board's all-day work session. The County Administrator advised that he would be sending an e-mail to the BoS in the next day or two with a draft agenda, to make sure nothing is left off that members of the Board want to discuss. The all-day work session is scheduled for Friday, January 16th beginning at 8:30 a.m. and in all likelihood will be held at the Government Center. The County offices will be closed that day so the building will be fairly quiet. Supervisor Gabriele asked that policies for how board meetings are conducted be added to the agenda. Not only the addenda, but also for public comment, where the Board seems to be a little flexible when some people they give extra time to and answer questions, and other people we tend to cut off. Supervisor Gabriele would rather it be more consistent and equitable in how it is done.

Supervisor Gabriele brought the Board's attention to an e-mail he sent that was spurred by an article he read in the *Roanoke Times* about state employees in Virginia, that a shocking percentage of them are below federal poverty line just based on state wages. Thanks to the information the Deputy County Administrator got together, the County is not so bad, but we do have seven employees who fall below the 100% of the poverty line, and if they are a family of four, he would like to see the Board, at some point talk about finding a way to raise that minimum above the poverty level. If we do have an employee here who does have a family and is living below the poverty level, we should be paying him more. Supervisor Gabriele asked that staff provide information about what the cost would be just to raise that minimum salary and maybe have a stated policy of this Board to make sure that our wages will never fall below the federal poverty line.

Supervisor Todd King reported that he and Supervisor Chris Tuck attended the Christiansburg Rescue Squad banquet, and he and the County Administrator attended the Riner Rescue Squad banquet; both were very enjoyable. At Supervisor King's request, the Christiansburg Rescue Squad provided some statistics: For the year to date, they had 471 calls, only 7 of which had to be turned over to another agency; had 23 mutual aid calls; member of the year is Nick Colson, life member of the year is Kelly Walters, junior member of the year is Nick Colson, Jr., active

member with the most calls is Logan Underwood. Logan ran 198 of the 471 calls. Life member with most calls was Kelly Walters. Speaking as a volunteer himself, Supervisor King said he appreciates everything that all of the volunteers do. He apologized that he was unable to attend the Elliston and Shawsville events because he had already committed to attend the Christiansburg event.

Supervisor King reported on his visit to the site on Radford Road where the owner has applied for rezoning and special use permit to allow a recycling facility in order to relocate the facility from 2684 to 3431 Radford Road. There will be only one entrance in and out on Radford Road (Route 11). In the evening the traffic will sometimes back up while waiting to get into the recycling facility at its current location. Supervisor King believes it will be an asset to the area, and it gets the traffic off of Route 11.

Supervisor Gary Creed attended the Shawsville Rescue Squad banquet at the Farmhouse Restaurant. He reported that Shawsville Rescue Squad owns their own building and the building is in very bad shape. Not only is the building in bad shape, the upstairs where the men sleep when they're on car are not good. The Rescue Squad asked Supervisor Creed to bring this up to the Board and see if the Board would be willing to give them some help in one of the following options: 1) One is take the building, they are willing to sign it over, or 2) Funds to keep the building maintained. Supervisor Creed stressed the fact that the Shawsville Rescue Squad is in dire need of help.

The Chair recalled that a couple of months after the Board of Supervisors passed a resolution to formulate a study group for the Riner area, Chief John Akers talked to him about having a study group for their area (Shawsville). The problem was that the County owns the facility in Riner, but does not own the facility in Shawsville, so they are trying to figure out how they can put a study group together. The fact that they would sign the building and property over to the County will give them another avenue to look at helping them, with the blessings of the Board of Supervisors.

Supervisor Annette Perkins attended the Fairview Home Board meeting on Thursday. She will attend a meeting of the Social Services Board on Wednesday prior to the employee luncheon at the Government Center. Sharing with everyone that this is her favorite time of year, Supervisor Perkins wished everyone happy holidays and hopes everyone enjoys family and any trips that may be planned.

Supervisor Perkins wanted the Board to know ahead of time that she will be unable to attend the all-day work session on January 16th. She has to get her husband to a doctor's appointment at the Veterans Administration. She asked that notes be taken at the work session so she can be kept up to date.

Supervisor Mary Biggs also wished everyone a happy holiday season, including staff and volunteers and citizens and Board members. She asked the Chair to give her regards to the employees at their holiday luncheon because she will be working that day and will not be able to attend.

Supervisor Biggs attended the New River Community Services Board meeting. Rosemary Sullivan will continue as the interim director for the foreseeable future, which seems to be working very well.

So the citizens in our county will know, the Board of Supervisors did hold their legislative dinner with three of our legislators on December 8th. Senators Edwards and Smith and Delegate Rush attended the legislative dinner. The Board of Supervisors made it clear to them that Montgomery County needs any help they could give in trying to proceed with a timely budget, trying to be held harmless from state cuts if at all possible, and try to advocate for our county and our citizens.

Delegate Yost attended the last Greater Montgomery Liaison meeting, with Blacksburg hosting. So it did provide an opportunity to let him know that Montgomery County needs his help, and it gave Delegate Yost a chance to talk about what he thought would be happening at the state level.

Supervisor Biggs attended the County/School Liaison meeting on December 7th. The meeting involved a discussion where Wendell Jones got to tell everyone about his relocation to California and everyone wished him well in his new job. Other discussions included surplus school properties update, shared services update which seems to be making progress with our county payroll and accounts payable and combining those functions together with the schools. The budget outlook was discussed and we shared what we had heard from the legislators.

Supervisor Chris Tuck The December 10th Planning Commission meeting included a public hearing on the request for a special use permit for a contractors storage yard on McCoy Road at the intersection of Keisters Branch Road. There were approximately fifty people there in opposition of the request, and there were a lot of folks with signed petitions. This request was scheduled to come before the Board of Supervisors earlier in this meeting, but the request was withdrawn by the applicant prior to this meeting. During the past three years that Supervisor Tuck has served on the Planning Commission, the December 10th meeting was probably the most well attended.

Supervisor Tuck reported on the Christiansburg Rescue Squad dinner that he and Supervisor King attended. After all the awards had been given out and everyone was getting up to leave, there was a lady there and she raised her hand and asked to speak; she said that she was just there to thank the Christiansburg Rescue Squad. Her father has dementia and continually kept calling the rescue squad with various emergencies and they would come out and try to address them, over and over and over again. One lady who came out there just told him as she patted his hand "if you need us again, you just call". She talked about that kind of commitment and the impact those volunteers have on everyone's lives, and it was a very touching moment. With that being said, Supervisor Tuck wished everyone a merry Christmas and told everyone that he looks forward working with them next year.

Supervisor Bill Brown, referring to the Board's last meeting and the gentleman that came before the Board, Scott Noonkester, and requested that the Board rename a section of Prices Fork Road in honor of his father, James Noonkester, asked if it was the consensus of the Board to look at something further, or to do nothing and let the matter drop. With the many rural roads we have in Montgomery County and how many former members of the boards of supervisors that we have, we probably could rename all the roads in the county after a supervisor. Supervisor Brown's personal opinion is that if that door is open, then it is wide open. So whatever the consensus of the Board is, it will be the Board's decision.

Following discussion by the Board, there was no consensus to move forward on the request. It was suggested that the residents of the community may want to do something to honor Mr. Noonkester in a different way.

Ronnie Martin, Executive Director of the NRV Workforce Investment Board, plans to retire effective January 31st, but will continue on a part time basis. Marty Holliday will become the Executive Director effective February 1st. The WIA Consortium Board had a skill gaps analysis for the thirteen participating counties, but in order to continue to have access to that information, the thirteen localities will probably be asked to contribute approximately \$400 a year. The Mt. Rogers and New River Valley planning districts will also be asked to contribute. Workforce Development contracted with Virginia Tech to keep the information updated.

Supervisor Brown asked that a resolution of appreciation be prepared for School Board Chairman Wendell Jones to recognize his service to the County.

Supervisor Brown wished everyone the very best during the holiday season.

ADJOURNMENT

Chair Brown adjourned the meeting to January 5, 2015 at 6:00 p.m.

The meeting adjourned at 10:10 p.m.

APPROVED: _____
William H. Brown
Chair

ATTEST: _____
F. Craig Meadows
County Administrator